

(g) *Tariff reconciliation proceedings for motor common carriers*—(1) *Petitions to waive collection or permit payment.* Subject to Board review and approval, motor common carriers (other than household goods carriers) and shippers may resolve, by mutual consent, overcharge and undercharge claims under the provisions of 49 U.S.C. 14709. Petitions for appropriate authority may be filed by either the carrier, shipper or consignee on the Board's tariff reconciliation docket by submitting a letter of intent to depart from the filed rate. The petitions will be deemed the equivalent of an informal complaint and answer admitting the matters stated in the petition. Petitions shall be sent to the Office of Compliance and Enforcement, Surface Transportation Board, Washington, DC 20423. The petitions shall contain, at a minimum, the following information:

- (i) The name(s) and address(es) of the payer(s) of the freight charges;
- (ii) The name(s) of the carrier(s) involved in the traffic;
- (iii) An estimate of the amount(s) involved;
- (iv) The time period when the shipment(s) involved were delivered or tendered for delivery;
- (v) A general description of the point(s) of origin and destination of the shipment(s);
- (vi) A general description of the commodity(ies) transported;
- (vii) A statement certifying that the carrier(s) and shipper(s) participating in the shipment(s) or the payer(s) of the freight charges concur(s) with the intent to depart from the filed rate; and
- (viii) A brief explanation of the incorrect tariff provision(s) or billing error(s) causing the request to depart from the filed rate.

(2) *Public notice and protest.* Tariff reconciliation petitions (letters of intent) shall be served on all parties named in the petition by the party that files the petition and will be made available by the Board for public inspection in the Office of Compliance and Enforcement Public File, Surface Transportation Board, Washington, DC 20423. Any interested person may protest the granting of a petition by filing a letter of objection with the Office of

Compliance and Enforcement within 30 days of Board receipt of the petition. Letters of objection shall identify the tariff reconciliation proceeding, shall clearly state the reasons for the objection, and shall certify that a copy of the letter of objection has been served on all parties named in the petition. The Board may initiate an investigation of the petition on its own motion.

(3) *Uncontested petitions.* If a petition is not contested, and if the Board does not initiate an investigation of the petition on its own motion, approval is deemed granted without further action by the Board, effective 45 days after Board receipt of the petition.

(4) *Contested petitions.* If a petition is contested or the Board initiates an investigation of the petition on its own motion, 15 days will be allowed for reply. The 15-day period will commence on the date of service of the objections or, if the Board initiates an investigation on its own motion, on the date of service of the decision initiating the investigation. After the period for reply has expired, the Board will issue a decision approving or disapproving the petition, or requesting further submissions from the parties, and then will issue a decision based on the further submissions.

[47 FR 49570, Nov. 1, 1982, as amended at 50 FR 15901, Apr. 23, 1985; 51 FR 5713, Feb. 18, 1986; 52 FR 26479, July 15, 1987; 53 FR 19301, May 27, 1988; 60 FR 2544, Jan. 10, 1995; 62 FR 50884, Sept. 29, 1997]

PART 1132—PROTESTS REQUESTING SUSPENSION AND INVESTIGATION OF COLLECTIVE RATE-MAKING ACTIONS

Sec.

1132.1 Protests against collective rate-making actions.

1132.2 Procedures in certain suspension matters.

AUTHORITY: 49 U.S.C. 721, 13301(f), and 13703.

SOURCE: 62 FR 50885, Sept. 29, 1997, unless otherwise noted.

§ 1132.1 Protests against collective ratemaking actions.

(a) *Content.* The protested collective ratemaking action sought to be suspended, whether or not contained in a tariff filed with the Board, should be

identified by making reference to: The name of the publishing carrier or collective ratemaking organization; the identification of the tariff, if applicable, or the identification of the collective ratemaking action publication if it is not contained in a tariff filed with the Board; the specific items or particular provisions protested; and the effective date of the tariff or other collective ratemaking action publication. Reference should also be made to the tariff or collective ratemaking action, and the specific provisions proposed to be superseded. The protest should state the grounds in support thereof, and indicate in what respect the protested collective ratemaking action is considered to be unlawful. Such protests will be considered as addressed to the discretion of the Board. Should a protestant desire to proceed further against a collective ratemaking action which is not suspended, or which has been suspended and the suspension vacated, a separate later formal complaint or petition should be filed.

(b) *When filed.* Protests against, and requests for suspension of, collective ratemaking actions will not be considered unless made in writing and filed with the Board at Washington, DC. If the protestant desires action by the Board before the effective date of the collective action, protests and requests for suspension shall reach the Board at least 12 days (except as provided in paragraph (c) of this section) before such effective date. If the protested collective ratemaking action is already in effect, or if the protestant does not desire action before its effective date, protests and requests for suspension can be filed at any time.

(c) *Motor carrier tariff bureau filings.* When motor common carrier tariff bureaus take collective actions subject to the special procedures adopted in Ex Parte No. MC-82, *New Procedures in Motor Carrier Rev. Proc.* 340 I.C.C. 1 (1971), and set forth at 49 CFR part 1139, protests must reach the Board at least 22 days before the effective dates of those actions if protestants desire action by the Board before such effective dates. All statements should be served by express mail or an equivalent expedited delivery service upon any party undertaking to bear the cost. Written

request for this expedited service must be made no less than 5 days before the statement is due to be filed with the Board.

(d) *Copies; service.* In connection with proceedings involving proposals subject to the special procedures in Ex Parte No. MC-82, *New Procedures in Motor Carrier Rev. Proc.* 339 I.C.C. 324, and set forth at 49 CFR part 1139, an original and 10 copies of every protest or reply filed under this section should be furnished for the use of the Board. Except as provided for proposals subject to the special procedures in Ex Parte No. MC-82, the original and 10 copies of each protest, or of each reply filed under this section, must be filed with the Board, and one copy simultaneously must be served upon the publishing carrier or collective ratemaking organization, and upon other persons known by protestant to be interested. These pleadings should be directed to the attention of the Secretary, Surface Transportation Board.

(e) *Reply to protest.* A reply to a protest filed at least 12 days before the effective date of proposed collective action provisions must reach the Board not later than the fourth working day prior to the scheduled effective date of the protested provisions unless otherwise provided. Replies to protests against motor carrier rate bureau proposals subject to Ex Parte No. MC-82 procedures, to be assured of consideration, must reach the Board no later than 14 days before the scheduled effective date of the protested provisions.

§ 1132.2 Procedures in certain suspension matters.

(a) A petition for reconsideration may be filed by any interested person within 20 days after the date of service of a Board decision which results in an order for:

- (1) Investigation and suspension of collective ratemaking actions, or
- (2) Investigation (without suspension) of collective ratemaking actions.

(b) Any interested person may file and serve a reply to any petition for reconsideration permitted under paragraph (a) of this section within 20 days after the filing of such petition with the Board, but if the facts stated in any such petition disclose a need for

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accelerated action, such action may be taken before expiration of the time allowed for reply. In all other respects, such petitions and replies thereto will be governed by the rules of general applicability of the Rules of Practice.

PART 1133—RECOVERY OF DAMAGES

Sec.

1133.1 Freight bill filing requirement under modified procedure.

1133.2 Statement of claimed damages based on Board findings.

AUTHORITY: 49 U.S.C. 721.

SOURCE: 47 FR 49575, Nov. 1, 1982, unless otherwise noted.

§ 1133.1 Freight bill filing requirement under modified procedure.

If, under modified procedure (for general rules governing modified procedure, see part 1112), an award of damages is sought, complainant should submit the paid freight bills or properly certified copies with its statement when there are not more than 10 shipments; if more than 10 shipments are involved, complainant should retain the documents.

§ 1133.2 Statement of claimed damages based on Board findings.

(a) When the Board finds that damages are due, but that the amount cannot be ascertained upon the record before it, the complainant should immediately prepare a statement showing details of the shipments on which damages are claimed, in accordance with the following form:

Claim of _____ under decision of the Surface Transportation Board in Docket No. _____.

- _____ Date of shipment.
- _____ Date of delivery or tender of delivery.
- _____ Date charges were paid.
- _____ Car (or vessel) initials.
- _____ Car (or voyage) number.
- _____ Origin.
- _____ Destination.
- _____ Route.
- _____ Commodity.
- _____ Weight.
- _____ Rate.
- _____ Amount.
- _____ Rate.
- _____ Amount.

_____ Reparation on basis of Board's decision.

_____ Charges paid by.¹

Claimant hereby certifies that this statement includes claims only on shipments covered by the findings in the docket above described and contains no claim for reparation previously filed with the Board by or on behalf of claimant or, so far as claimant knows, by or on behalf of any person, in any other proceedings, except as follows: (Here indicate any exceptions, and explanation thereof).

By _____
(Claimant)

(Practitioner)

(Address)

(Date)

Total amount of reparation \$ _____. The undersigned hereby certifies that this statement has been checked against the records of this company and found correct.

Date _____ Concurred² in: _____ Company
_____ Company, Defendant Collecting Carrier, Defendant³.

By _____, Auditor. By _____, Auditor.

(b) The statement should not include any shipment not covered by the Board's findings, or any shipment on which complaint was not filed with the Board within the statutory period. The filing of a statement will not stop the running of the statute of limitations as to shipments not covered by complaint or supplemental complaint. If the shipments moved over more than one route, a separate statement should be prepared for each route, and separately numbered, except that shipments as to which the collecting carrier is in each instance the same may be listed in a single statement if grouped according to routes. The statement, together with the paid freight bills on the shipments, or true copies thereof, should then be forwarded to the carrier which collected the charges, for verification and certification as to its accuracy. If the statement is not forwarded immediately to the collecting carrier for

¹Here insert name of person paying charges in the first instance, and state whether as consignor, consignee, or in what other capacity.

²For concurring certificate in case collecting carrier is not a defendant.

³If not a defendant, strike out the word "defendant."